

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>JILL A. WENDT</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 247,531
<b>BOEING COMPANY</b>	)	
Respondent	)	
AND	)	
	)	
<b>AIG CLAIM SERVICES, INC.</b>	)	
Insurance Carrier	)	

**ORDER**

Respondent appeals from the February 15, 2000, preliminary hearing Order of Administrative Law Judge John D. Clark. The Administrative Law Judge granted claimant benefits in the form of temporary total disability compensation for the period December 24, 1999, through January 3, 2000.

**ISSUES**

Whether the Administrative Law Judge exceeded his authority by ordering payment of temporary total disability benefits for a period of time when claimant was receiving holiday pay from respondent.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the evidence presented and for the purposes of preliminary hearing, the Appeals Board finds:

The only dispute centers around claimant's entitlement to temporary total disability compensation from December 24, 1999, through January 3, 2000. Respondent objects

to the temporary total disability compensation during this period, as claimant also received holiday pay during this same period as a condition of the contract between Boeing and the claimant's union. Respondent raises no other defense to claimant's entitlement to temporary total disability compensation. The parties acknowledge claimant was returned to work by Kenneth A. Jansson, M.D., the treating physician, on January 4, 2000.

Pursuant to K.S.A. 1999 Supp. 44-534a, the administrative law judge has the authority to order or deny temporary total disability compensation in a preliminary hearing order, pending a full hearing on the claim.

K.S.A. 1999 Supp. 44-551 provides that the Appeals Board shall not review a pending preliminary hearing order entered by the administrative law judge unless it is alleged that the administrative law judge exceeded his or her jurisdiction in granting or denying the relief requested. Under K.S.A. 1999 Supp. 44-534a, preliminary hearing findings with regard to the following disputed issues are considered jurisdictional and subject to review by the Appeals Board:

- (1) Whether the employee suffered an accidental injury;
- (2) Whether the injury arose out of and in the course of the employee's employment;
- (3) Whether notice is given or claim timely made;
- (4) Whether certain defenses apply.

In the instant case, the Administrative Law Judge granted claimant's request for temporary total disability benefits. As it is within the Administrative Law Judge's authority to award temporary total disability benefits, and as the granting of temporary total disability benefits does not fall within one of the jurisdictional issues set forth in K.S.A. 1999 Supp. 44-534a, the Appeals Board finds that the Administrative Law Judge did not exceed his jurisdiction in ordering the payment of temporary total disability compensation. Accordingly, this Appeals Board does not have jurisdiction to review that decision at this time.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the appeal by the respondent in the above matter is dismissed, and the Order of Administrative Law Judge John D. Clark dated February 15, 2000, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of March 2000.

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BOARD MEMBER

c: Robert R. Lee, Wichita, KS  
Kirby A. Vernon, Wichita, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director